

STATE OF SOUTH DAKOTA       )  
  :§  
COUNTY OF DOUGLAS        )

IN CIRCUIT COURT  
FIRST JUDICIAL CIRCUIT

FIRST DAKOTA NATIONAL BANK,

21CIV19-000004

Plaintiff,

v.

ROBERT L. BLOM A/K/A ROBERT LEE  
BLOM, BECKY J. BLOM, A/K/A BECKY JO  
BLOM, AND B & B WASHOUT, LLC,

Direct Party Defendants, and

**FIRST DAKOTA'S MOTION  
FOR SALE OF CATTLE  
AND, IF NECESSARY,  
EXPEDITED HEARING**

JEREMY WRIGHT, AARON WRIGHT,  
D/B/A WRIGHT FEEDYARDS, TRAVIS  
DELANGE, NORMAN DELANGE, D/B/A  
TDN FEEDLOTS, PAUL D. GADER,  
TERISA V. GADER, D/B/A GADER  
LIVESTOCK, GADER LIVESTOCK LLC,  
WAO INC., DON W. ORME, INC., CODY W.  
ORME, WES ORME, SCOTT ELMER LOSING, DEVONNE  
MARIE LOSING, JAMES AND TERI EDWARDS,  
GREGORY JOSEPH MAIROSE, STEVE CARLSON,  
DUFRAIN FARMS INC., COW POW, LLC, TROY  
VANGENDEREN, CARRIE ANNE VANGENDEREN,  
DUANE AUGUSTINE HAGEMAN, RODNEY D.  
MEYER, RANDY MEYER, FRONTIER LAND &  
CATTLE LLC, DONALD STANGE, MARION RUS,  
LLOYD AND MARGIE VANGENDEREN, RYAN  
YOUNGSTROM, LONDA YOUNGSTROM, DANIEL  
VEURINK, HANK ZOMER, TAYLOR BLOM, HARLAN  
VANGENDEREN, JUDY VANGENDEREN, H & J  
CATTLE CO., LLC, RUSSELL FARMS, INC.,  
LAUREN DEAN RUSSELL AND PATRICIA K. RUSSELL,  
CHAD PLAMP, CURTIS PLAMP, COREY PLAMP,  
JOHN AND CRYSTAL VANDENHOEK, MICHAEL  
AND LORI VANDENHOEK, JOHN ZOMER JR., AUSTIN  
ZOMER, TRIPLE Z ANGUS LLC, JOHN F. RUZICKA  
D/B/A TRAILS END FARM, LTD, MARVIN AND DELORES  
VANGENDEREN, CAROLAN AND SONS, INC.,  
FUERSTENAU FARMS, LTD, GERALD FUERSTENAU,  
RICKIE WEERHEIM, SINGLETON FARMS, STEVE  
AND DEBBIE STANG, RICK AND CHERYL HOHN,  
JOHN P. FENSKE, AND MARVIN E. HARTKE,

Interested Party Defendants.

First Dakota National Bank ("First Dakota") for its motion for sale of cattle and, if necessary, for expedited hearing states and alleges as follows:

1. Attached hereto as Exhibit 1 and incorporated by reference is an Interim Report from Receiver Lew Dirks outlining his investigation and cattle conditions as of the date of said Interim Report. Counsel for all parties and those provided notice by mail were furnished this when First Dakota submitted its Proposed Order Granting Receivership.

2. Since authoring the Interim Report, Receiver Dirks has noted the cattle on the Blom feedlot have been fighting to retain weight. Moreover, there is an expected warm spell that, if it occurs as expected, will cause snow to melt and result in muddy cattle that would markedly decrease their sale value.

3. Upon information and belief, Receiver Dirks has consulted with experienced livestock salespeople who have indicated they will need at least a full week to advertise and ready a sale barn for the volume of cattle at the Blom feedlot.

4. Receiver Dirks has funds and has tendered ongoing cattle expenses to agister lien holders since the receivership was placed into effect by the Court effective February 8, 2018 and will continue to do so. Receiver Dirks has offered to sell the cattle located at the Wright and DeLange feedyards at the same time as the Blom cattle - as soon as possible but on a minimum one week's notice, hoping to beat the spring thaw.

5. Based on its review of the transcript from the original hearing, First Dakota understands Receiver Dirks has the inherent authority to sell all cattle without consent of parties claiming ownership but does not believe that such is a prudent course based on the communications Receiver Dirks has received from interested parties and their counsel. All funds will be placed in escrow by Receiver Dirks and not distributed to any person or entity without further order of the Court.

6. Instead, First Dakota submits herewith a Proposed Order Re: Sale of Cattle for immediate Court approval. However, if resisted by any interested party, First Dakota prays for an expedited hearing based on the aforesaid where Receiver Dirks, bank officer(s) and others could testify.

7. Any attempts by the parties to compel Receiver Dirks to sort out ownership, claimant by claimant, animal by animal or pen by pen, could take months given that there are multiple persons or entities who were sold the same cattle.

8. Any gain or profit on the types of cattle on hand is limited and there is more risk than reward to continue feeding versus prompt sale.

9. By selling all available cattle and converting them to escrowed proceeds, Receiver Dirks could then devote his efforts to investigating the ownership and value of interested party claims.

10. Conditions have changed since the initial hearing on February 14. For example, Receiver Dirks has discovered there are not enough fat cattle for any Cargill contracts to be filled. Moreover, Receiver Dirks has concluded that the cattle specifically identified by many of the claimants have been sold and resold to others, rendering brands and tags moot. Finally, the continued extreme cold has been a detriment to weight gain on said cattle.

WHEREFORE, First Dakota National Bank prays that its motion is granted and Proposed Order is signed without hearing but should any interested party resist, First Dakota prays for an expedited hearing so as to avoid major market loss in value to cattle in Receiver Dirks due to thawing conditions.

Dated this 5<sup>th</sup> day of March, 2019.

/s/ Steven K. Huff

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Attorneys for the Plaintiff

#### **CERTIFICATE OF SERVICE**

This is to verify that on the 5<sup>th</sup> day of March, 2019, I served via Odyssey, a true and correct copy of the foregoing to the following individuals:

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/s/Steven K. Huff  
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